

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1653V

Filed: June 16, 2017

UNPUBLISHED

SHELLY A. CHMIELEWSKI,

*

*

Petitioner,

*

v.

*

*

SECRETARY OF HEALTH

*

AND HUMAN SERVICES,

*

*

Respondent.

*

*

Leah VaSahnja Durant, Law Offices, Washington, DC, for petitioner.

Ryan Daniel Pyles, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On December 15, 2016, Shelly A. Chmielewski (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that she received a pneumococcal conjugate vaccine on January 27, 2016 and thereafter suffered from a shoulder injury related to vaccine injury (“SIRVA”). Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 13, 2017, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent states that petitioner’s alleged injury is “consistent with SIRVA (in this case, a significant aggravation of a preexisting right shoulder condition)’ that a preponderance of the evidence establishes that her SIRVA was caused-in-fact by the pneumococcal vaccination she received on January 27, 2016; and that no other

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

causes for petitioner's SIRVA were identified." *Id.* at 3. Respondent further agrees that the statutory six month sequela requirement has been satisfied. *Id.*

In view of respondent's concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master